

EB 1-8-1997

Record No. 96-542

In The Supreme Court of the United States

October Term 1996

WALTER McMILLIAN,
Petitioner,

v.

MONROE COUNTY,
Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

MOTION FOR LEAVE TO FILE THE
BRIEF OF THE SOUTHERN STATES POLICE
BENEVOLENT ASSOCIATION
AS *AMICUS CURIAE* OUT OF TIME

J. Michael McGuinness*
P.O. Box 952
Elizabethtown, N.C. 28337
910-862-7087

**Counsel of Record*

Now comes the Southern States Police Benevolent Association and respectfully moves this court for leave to file its *Amicus Curiae* brief out of time.

Amicus has already filed its brief in this case by consent, which were mailed on January 21, 1997 and received in this court's clerk's office on January 23, 1997. At the time of preparation and filing of its brief, counsel for *Amicus* was unaware of this court's order of December 6, 1996, mandating that the briefs shall be due and filed at this court by January 21, 1997. Counsel for *Amicus* had merely been put on notice on January 21 as being the filing date, and acted accordingly by mailing them that date. All counsel were served and there would be no prejudice as a result of the two day delay in actual filing.

Wherefore, the Southern States Police Benevolent Association respectfully requests that this court issue an order granting leave for the untimely filing of the *Amicus Curiae* brief.

J. Michael McGuinness
P.O. Box 952
Elizabethtown, NC 28337
(910) 862-7087
Member, United States
Supreme Court Bar